

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

COUNCIL ON ENVIRONMENTAL
QUALITY and BRENDA MALLORY,
in her official capacity as Chair of the
council on Environmental Quality,

Defendants,

AMERICAN FARM BUREAU
FEDERATION, et al.,

Defendant Intervenors

Case No. 3:20-cv-06057-RS

NOTICE OF DISMISSAL; ORDER

WHEREAS: On August 28, 2020, State Plaintiffs filed this suit to challenge Council on Environmental Quality's ("CEQ") July 16, 2020, rulemaking entitled Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (the "2020 Rule"). ECF No. 1.

WHEREAS: On November 5, 2020, the Court granted American Farm Bureau Federation et al's motion to intervene as Defendants in this matter.

WHEREAS: This case was stayed by the Court on February 12, 2021, to accommodate Defendant the CEQ's review of the 2020 Rule pursuant to Executive Order 13990: 'Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.' 86 Fed. Reg. 7,037 (Jan. 25, 2021). ECF No. 82.

WHEREAS: Through a series of Court Orders, the stay of this case has been extended eleven times until April 4, 2024 to accommodate the following rulemakings by CEQ revising

1 National Environmental Policy Act's ("NEPA") implementing regulations: the Final Interim
2 Rule, 86 Fed. Reg. 34,154 (June 29, 2021); the National Environmental Policy Act
3 Implementing Regulations Revisions, 87 Fed. Reg. 23,453 (April 20, 2022); and the
4 Bipartisan Permitting Reform Implementation Rule, 85 Fed. Reg. 35,4432, 35,448 (May 1,
2024) (the "2024 Rule"). ECF Nos. 84, 89, 92, 96, 102, 104, 108, 110, 118, and 124.

5 WHEREAS: Following the promulgation of the 2024 Rule on May 1, 2024, the Parties
6 agreed to request a further stay until September 9, 2024, to allow State Plaintiffs to review and
7 analyze the 2024 Rule and its impact on State Plaintiffs' challenge. ECF No. 123.

8 WHEREAS: Upon expiration of the stay, State Plaintiffs asked that the Court further
9 extend the stay in the Parties' joint status report filed on September 19, 2024. ECF No. 127.
10 State Plaintiffs argued that the instant case is not moot, this Court retains jurisdiction and can
11 enter a stay, and an extension of the stay is warranted to accommodate a forthcoming decision
12 in a case filed in the District Court of North Dakota challenging the 2024 Rule and seeking its
13 vacatur and reinstatement of the 2020 Rule, which is challenged in this litigation. ECF No.
14 127.

15 WHEREAS: In the joint status report, Federal Defendants argued that this case is moot
16 and an extension of the stay is not warranted. ECF No. 127.

17 WHEREAS: At a Status Conference held before this Court on September 26, 2024,
18 State Plaintiffs argued for a further extension of the stay and Federal Defendants argued
19 against a further stay.

20 WHEREAS: Upon conclusion of the Status Conference, having heard arguments from
21 all Parties, this Court stated it would dismiss the case as moot and directed the parties to file a
22 stipulation to that effect. ECF No. 129.

23 WHEREAS: State Plaintiffs respectfully disagree with this Court's assessment that this
24 case is moot and should be dismissed.

WHEREAS: State Plaintiffs and Federal Defendants were not able to reach agreement
on language for a stipulated dismissal.

ACCORDINGLY, State Plaintiffs hereby dismiss this action without prejudice at the direction

1 of the Court.

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* In compliance with Local Rule 5-1(i)(3), the filer of this document attests that all signatories listed have concurred in the filing of this document.

1 IT IS SO ORDERED.

2 Dated: 10/28/2024

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5 Richard Seeborg
6 CHIEF UNITED STATES DISTRICT JUDGE

7 Respectfully submitted this 10th day of October, 2024.
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